

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JOHNNY JOE HARO.
CDCR #P-08307,

Plaintiff,

vs.
D. CAMARGO; J. SAIS; L. VEGA; and
D. MAY,

Defendants.

Civil No. 14-CV-1782 JLS (PCL)

**ORDER: (1) ADOPTING
MAGISTRATE JUDGE LEWIS'
REPORT AND
RECOMMENDATION; AND (2)
GRANTING IN PART AND
DENYING IN PART DEFENDANTS'
MOTION TO DISMISS**

(ECF No. 10, 15)

Presently before the Court is Defendants D. Camargo, J. Sais, L. Vega, and D. May's ("Defendants") Motion to Dismiss Plaintiff's Complaint. (ECF No. 10.) Also before the Court is Magistrate Judge Peter C. Lewis' Report and Recommendation ("R&R") advising this Court to grant in part and deny in part Defendants' Motion to Dismiss. (ECF No. 15.)

Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a district court's duties in connection with a magistrate judge's R&R. The district court must "make a de novo determination of those portions of the report to which objection is made," and "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); *see also United States v. Raddatz*, 447

1 U.S. 667, 673–76 (1980); *United States v. Remsing*, 874 F.2d 614, 617 (9th Cir. 1989).
2 However, in the absence of timely objection, the Court “need only satisfy itself that there
3 is no clear error on the face of the record in order to accept the recommendation.” Fed.
4 R. Civ. P. 72 advisory committee’s note (citing *Campbell v. U.S. Dist. Court*, 501 F.2d
5 196, 206 (9th Cir. 1974)).

6 Here, the parties failed to timely file objections to Magistrate Judge Lewis’ R&R.
7 Having reviewed the R&R, the Court finds that it is well reasoned and contains no clear
8 error. Accordingly, the Court hereby (1) **ADOPTS** Magistrate Judge Lewis’ R&R in its
9 entirety; (2) **GRANTS IN PART AND DENIES IN PART** Defendants’ Motion to
10 Dismiss.

11 Accordingly, (1) Defendants’ Motion to Dismiss on exhaustion grounds is
12 **DENIED**; (2) Defendants Motion to Dismiss the injunctive claims for relief is
13 **GRANTED** and Plaintiff’s injunctive claims for relief are **DISMISSED WITHOUT**
14 **PREJUDICE**; and (3) Defendants’ Motion to Dismiss the official capacity claims against
15 Defendants is **GRANTED**. Plaintiff may file an amended complaint curing the
16 deficiencies outlined in the R&R on or before April 24, 2015.

17 **IT IS SO ORDERED.**

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19 DATED: March 2, 2015

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Honorable Janis L. Sammartino
21 United States District Judge
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